

- My name is Michael Santorelli. I am a director of the Advanced Communications Law & Policy Institute (ACLP) at New York Law School. At the ACLP, we explore the benefits of broadband connectivity and offer recommendations for removing barriers impeding more widespread deployment and adoption of high-speed internet access.
- The ACLP is regularly sought out as a resource by federal, state, and local policymakers. We have served as a member of the FCC's Consumer Advisory Committee and the FCC's Removing State & Local Barriers to Broadband Deployment Working Group. We were also members of the New York State Broadband Task Force about a decade ago when the state was designing its previous broadband grant program. That grant program succeeded in spurring broadband deployment across much of the state. However, pockets of the state remained unserved, and the state, for too long, failed to focus on equally important demand-side issues like digital literacy.
- Now, the state, thanks to more than \$1 billion in federal and state funding, has the opportunity to close its digital divide once and for all and empower millions of New Yorkers with critical digital skills. The ConnectALL office, which is housed in ESD, has been charged with figuring out how to deploy these funds to address these critical needs.
- ConnectALL has already stated that, even with some \$664M in federal funding and an additional \$50M in state funds, some areas may still be left unserved once the current grant program, dubbed BEAD, ends. This reflects the significant costs of bringing broadband to the most remote and geographically challenging parts of the state.
- Curiously, though, the ConnectALL office has decided to divert \$328M in additional federal funding to address other issues. Specifically, \$100M will go towards bringing broadband to affordable housing units across the state. In most cases, though, these units are in areas where broadband is already available, raising the likelihood that grant funding will support significant overbuilding. (Overbuilding refers to the use of public funds to subsidize broadband deployment in areas that are already served.)
- Perhaps more egregiously, ConnectALL has designed a Municipal Infrastructure Grant Program (MIP) to dole out \$228M to municipalities interested in building their own broadband networks. This program stems from a misguided belief by some that municipal broadband networks are best positioned to address connectivity issues.
- For a variety of reasons, it is likely that the MIP will squander once-in-a-lifetime funding on projects that will create duplicate networks. In other words, ConnectALL

wishes to support construction of *additional* broadband networks in served areas at a time when that funding could be used to facilitate broadband expansion into areas that lack even a single broadband provider.

- The ACLP has written expansively on the topic of municipal broadband. These projects are incredibly risky because, in almost every case, they are built in markets that are already served, placing them in direct competition with private ISPs that are much nimbler and more experienced than a municipal government when it comes to running a business. Many networks struggle or fail to sustain themselves financially. Oftentimes, localities must prop up these networks with taxpayer funds to offset financial losses. In dozens of cases, networks have failed and been sold to private entities.
- New York does not have a single fully built municipal broadband network. The PSC has observed that broadband availability is robust, with well-defined pockets of unserved areas remaining. Given these facts, the ACLP has long argued that all available broadband funding should be focused first and foremost on closing the digital divide, not subsidizing overbuilding.
- Only after all unserved areas are served is it appropriate for the state to begin studying whether subsidizing municipal broadband overbuilding is necessary. If the state chooses to subsidize municipal broadband overbuilding, then it should do so with the understanding that its financial support will lead to the assumption of many financial, operational, and other risks by a city or town once it enters the broadband market. Based on publicly available information regarding the MIP, it does not appear that ConnectALL has taken these steps.
- By launching the MIP, the state will enter uncharted waters because it will become one of the only states that directly subsidizes municipal broadband. This gives New York a direct stake in these projects. Left unaddressed by ConnectALL is what happens when these networks struggle. Will the state bail out struggling projects? How will it deal with failed networks? Is the legislature willing to allocate additional taxpayer funds to prop up networks in perpetuity?
- Last October, the ACLP published an extensive profile of broadband in New York. Among many other issues evaluated in that profile was the history of municipal broadband and its potential fate in New York. We shared a copy of the profile with the ConnectALL office; it does not appear that our analysis of municipal broadband risks and failures informed the design of the MIP. I have submitted a copy of the profile to the Committees for your review.

- In closing, the ACLP respectfully submits that all available funding should be focused on closing the digital divide and ensuring that every New Yorker is equipped with critical digital literacy skills.